TROUT UNLIMITED

Mr. Paul E. Stacey
Department of Environmental Protection
Bureau of Water Protection and Land Reuse
Planning and Standards Division
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Comments on the Proposed Stream Flow Standards and Regulations

Mr. Stacey,

As a Ledyard, Connecticut resident and member of the Thames Valley Chapter of Trout Unlimited, I am writing today to express my support for the Proposed Stream Flow Standards and Regulations and to offer comments on those sections I would like to see revised.

The proposed regulations need to ensure that a consistent, adequate flow will exist in all of Connecticut's rivers and streams, providing the needed habitat to allow trout and other species to survive and thrive. Trout Unlimited fought hard in the Legislature to get flow regulations for all our rivers and streams. Therefore, I am pleased to see DEP taking steps to implement this law.

The proposed flow requirements take into account the natural high and low flow periods present in any given year, and recognize that water releases and diversions must be adjusted for these naturally occurring cycles. Inclusion of standards for groundwater withdrawal is crucial to the success of your effort and must be retained. Ensuring adequate flows for all bioperiods will have a significant impact on the quality and health of the ecosystem. I don't believe the proposed regulations quite accomplish this goal as discussed below.

The proposed regulations should be strengthened, particularly when it comes to urban rivers designated as Class 4. A Class 4 classification will provide virtually no stream flow protections for a river, severely limiting any chance that the stream can remain viable habitat for trout or any aquatic life. The regulations seem inconsistent in requiring Class 4 streams to meet current "stocked stream" standards while the Statement on Purpose on page 22 states that these old standards are being eliminated.

It is important that groundwater withdrawals do not result in excessive flow reductions in nearby streams, or even worse, the complete drying out of a streambed, which has happened on the Fenton River in my chapter. At the lowest flow periods, when the stress is greatest on trout and other aquatic life, cutting back or eliminating groundwater withdrawals which would impact stream flows is essential.

The narrative standards in 26-141b-4 of the regulations set an excellent, high moral standard for our streams that the presumptive standards in 26-141b-6 don't live up to. At times of low flow during the interim 5 -10 year period it is possible or even likely that a stream can be pumped dry. If the stream has a natural flow near bioperiod Q99 it takes only two diverters on a Class 3 stream (four on a Class 2 stream) to legally remove all the water under the proposed regulation. I recommend that a minimum stream flow of at least Q99 be guaranteed by stopping diversions whenever a stream's flow reaches that level. This should apply to all stream classes including Class 4 streams. This flow falls well below the narrative standard but at least provides a minimal amount of water for aquatic life.

The regulations are silent about how diverters or the DEP will determine the allowed flow for the multitude of streams in the state that do not have historical USGS flow information. How can a diverter determine what is allowed and how can an organization such as Trout Unlimited argue for greater flow for aquatic life if there is no data? The regulations should cover the procedure that will be used in these, the majority, of cases.

Section 26-141b-5(c), which covers petitions to change class is heavily weighted towards degrading the class of a stream and provides little emphasis or guidance on requirements to upgrade the class of a stream to a lower class number. In my opinion this will lead to greater and greater withdrawals over time. Equal emphasis should be given to changing the classifications both up and down. Section 26-141b-5(c)(1)(B) seems to lists things to consider in downgrading a class and doesn't provide equal time to how a class might be upgraded.

In the 10+ year period after a stream class is set all users withdrawing water have to somehow magically get together and prorate their withdrawals to meet the overall limit on withdrawal. I doubt this is really going to happen. If it doesn't, how is DEP going to prorate the withdrawals? This should be written into the final regulations. I would support a prorating scheme based on actual withdrawals say in 2009 adjusted for permitted withdrawals after that date and for applications for permits that have been submitted. DEP could allow each diverter a fraction of the water available based on the ratio of the available water for withdrawal divided by the total requested withdrawal. The base year could be stepped forward in time as new diverters come onboard. I believe that choosing a base year after 2009 would encourage withdrawing more water now to get a larger portion of later withdrawals.

Beginning on page 15 of the regulations are formulas for calculating permitted withdrawals. These include the ratio of Q99 to Q99 for the rearing and growth bioperiod. Q99 for the rearing and growth period is generally lower than Q99. As a result the ratio of the two numbers is greater than 1.0. For the Shetucket River I calculated a ratio of 1.29 for the years 1928 – 2007. Other streams likely have similar ratios. I would recommend that this ratio be taken out of the formulas. The

formulas would then be simpler to calculate and based only on Q99 for the current bioperiod. The permitted diversion would be reduced which I support.

Sec. 26-141b-9(a) refers to the more stringent standard applying. What is meant by this? If it means the standard that results in the least diversion, as I think it does, then why not say this.

In reading the regulations I see that a lot of thought and good science was applied and I applaud your efforts to date. I hope my comments will be considered to make the regulations even better. I think you are well on the way to providing regulations that will protect the flows in our streams well into the future.

Sincerely,

Michael J. Goodwin

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